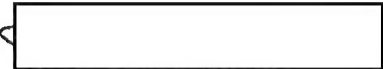


24 JUN 1968

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : Testimony on S. 1035

Attached are sanitized versions of cases involving Security, Medical, and Inspector General processes which can be used to illustrate both the operation of the Agency screening system and derivatively the adverse effects if S. 1035 became law. Mr. Bray of the committee staff has indicated that the committee may ask for some case examples in reference to the DCI's testimony.


R. L. Dannerman
Deputy Director
for Support

STAT

4 Atts


cc: Executive Director-Comptroller w/atts
~~General Counsel~~ w/atts
Legislative Counsel w/atts

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Persons required to file financial interest statements of course are those required under the Civil Service regulation. These are all employees paid at a level of the Federal Executive Salary Schedule. In addition, all personnel at GS-13 or above, or at a comparable pay level, who have responsibility for decision or action concerning contracts or subsidies, in auditing a non-Government enterprise, or in an area which has an economic impact, must file. Exceptions from this requirement may be made by appropriate officials where the chance of a conflict of interest is remote or the possible effect on the integrity of Government is inconsequential. Approximately  employees STATINTL filed in 1967.

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18 June 1968

MEMORANDUM FOR THE RECORD

SUBJECT: S. 1035

1. I attended a hearing of the House Subcommittee on Manpower and Civil Service on S. 1035 at which Carl W. Clewlow, Deputy Assistant Secretary of Defense, and Frank Bartimo, Assistant General Counsel for Manpower, Office of Secretary of Defense, testified. Subcommittee members present were: Representatives David N. Henderson (D., N.C.), H.R. Gross (R., Iowa), James T. Broyhill (R., N.C.), and Lee H. Hamilton (D., Ind.). I obtained a copy of Mr. Clewlow's prepared testimony which he followed closely throughout his presentation.
2. Following the prepared testimony Chairman Henderson asked to what extent psychological testing is used in the Department of Defense. Mr. Bartimo stated that it was used only in cases involving sensitive security matters and then only as an aid. The same question was asked with regard to the polygraph and essentially the same answer was given.
3. Henderson also asked what is the present policy on financial disclosure. Bartimo replied that this is required only where there is a potential for conflict of interest.
4. Representative Gross also raised questions regarding financial disclosure and indicated that he is still somewhat angry over the refusal of the Department of Defense to provide information on the TFX contract. Gross' attitude toward both S. 1035 and H.R. 17760 could not be judged from the nature of his questions.
5. Representative Hamilton asked if the national security would be seriously jeopardized if S. 1035 should become law, to which Bartimo

replied in the affirmative. Hamilton also asked if S. 1035 is such a bad bill that it is beyond amendment. Bartimo did not provide a direct answer to the question although it was apparent that he held this view. Gross inquired whether there is a need for either of the bills and again Bartimo hedged but did indicate that they felt that H.R. 17760 is a far better bill.

6. Representative Broyhill mentioned the personnel grievance procedures of DOD and requested that the Subcommittee be furnished with a written exposition on the grievance procedure.

[Redacted]
Assistant Legislative Counsel

STATINTL

Distribution:

Orig. - Subject

1 - Ex/Dir-Compt

① - Mr. Bannerman

1 - OGC [Redacted]

[Redacted]
1 - Chrono

OLC/CEA:rw (20 June 1968)

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12/15 68-3006

13 June 1968

MEMORANDUM FOR THE RECORD

**SUBJECT: Proposed Letter from Chairman Rivers to Chairman
Henderson Regarding S. 1035 (Constitutional Rights
of Federal Employees)**

1. In the afternoon of 12 June 1968, [] and I met with Mr. Russ Blandford, Chief Counsel, House Armed Services Committee, and showed him the attached draft. He said it was very good but too long and asked my suggestions for shortening it. I proposed deleting pages 2, 3, 4, 5, and the first part of page 6, substituting therefor the following:

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"I am sure you are aware of the necessity that CIA personnel be people of special competence, integrity and security consciousness. This is not only because of their responsibilities, but because we know that hostile intelligence services assign the highest priority to identifying and exploiting any vulnerabilities they may have. Over the years I have been particularly impressed by the high caliber of Agency personnel, and I think one of the Director's most important responsibilities is the preservation of these high personnel standards."

Mr. Blandford agreed.

2. Mr. Blandford suggested revising the closing paragraph on page 10 to read as follows:

"I would appreciate an early expression of your views on this important matter. I am sure it would be to our mutual interests to avoid a debate on the floor

where, I am confident, all, or nearly all of the members of my Committee, would undoubtedly have to oppose S. 1035 as it is now written."

3. At Mr. Blandford's request we took our draft with the above revisions to Philip Kelleher, of the Armed Services Committee staff, for rewrite accordingly. Mr. Blandford could not reach Chairman Rivers at the time but said he would take the matter up with the Chairman on the morning of 13 June 1968.

SIGNED

JOHN M. MAURY
Legislative Counsel

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Original - Subject

- 1 - DCI
- 1 - DDCI
- 1 - Ex/Dir
- 1 - DD/S
- 1 - OGC
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RBS

13 June 1968

MEMORANDUM FOR THE RECORD

SUBJECT: Testimony of Mr. John W. Macy, Chairman, Civil Service Commission, on S. 1035 Before the House Subcommittee on Manpower and Civil Service

1. I attended the hearing of the House Subcommittee on Manpower and Civil Service at which Mr. Macy, Chairman, Civil Service Commission, testified on S. 1035. I obtained a copy of his prepared statement which he followed verbatim throughout his testimony.
2. At the conclusion of Macy's testimony in a brief exchange between members of the Subcommittee and Macy, Representative David N. Henderson, Chairman of the Subcommittee, left a definite impression that he opposes S. 1035 and is much more inclined toward his own bill, H.R. 17760. Mr. Henderson also noted that he would like future witnesses to discuss both S. 1035 and H.R. 17760.
3. Representative Charles Wilson (R., Calif.) indicated that he felt the problems encompassed by S. 1035 are much better handled administratively and that it would be very difficult to write a law which would balance the interest of all concerned.
4. Representative James Broyhill (R., N.C.) asked which agencies use the polygraph routinely, to which Macy replied the intelligence agencies, specifically naming CIA. Broyhill also asked whether two personnel files, one open and one secret, are maintained as a matter of practice. He said he had had a complaint from a constituent claiming this to be true and saying that the secret file is the one which is used for promotions and the open file is ignored. Macy said such practice is not approved and he would invite any information on this in order that the Civil Service Commission could take corrective action.
5. Representatives Henderson, Wilson, and Broyhill were the only Committee members in attendance.

SIGNED

Assistant Legislative Counsel

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12 JUN 1968

MEMORANDUM FOR: Deputy Director for Support

SUBJECT : Proposed "Henderson Bill"

1. This memorandum is for your information in response to your request for comments concerning the proposed "Henderson Bill."

2. First, let me note that the Henderson Bill is a great improvement over the so-called Irvin Bill (S. 1035) for which it would provide a substitute. It is notable that the Henderson Bill establishes and emphasizes that employee rights are not absolute but are balanced by obligations to the employer.

3. There are a few points in the Bill which might be considered further. These are as follows:

a. Sections 7172 (1) and (2) refer to "unwarranted invasion of personal privacy" and to the right of free speech, etc. "compatible with his Government employment", respectively. The definitions of "unwarranted" and "compatible" in these two clauses are indefinite and perhaps need tightening. For example, "unwarranted invasion of personal privacy" suggests that some invasion is tolerable but doesn't clarify what is warranted and what is unwarranted. In the second instance, it is not clear whether the compatibility refers to the individual's specific Government employment or generally to the fact that he is an employee of the federal Government.

b. In section 7172 (4), the phrase "not directly related to Government employment" is a little mushy. Literal interpretation of this phrase might inhibit our ability to monitor outside activities of Agency employees, including "moonlighting" employment.

c. Section 7172 (5) gives the employee an unlimited right to "counsel" of his own choosing. This could present difficulties for us if the counsel chosen was unacceptable to the Agency for security reasons. This is a major problem in this bill and is similar to relevant provisions of the Irvin Bill. Because of sensitive information that could be developed in a disciplinary case, we could have real difficulty living with this provision.

This provision also appears incompatible with the authority of the Director to terminate the employment of any individual on his sole determination that it is in the interests of the United States to do so.

d. Section 7174 (2) with its right of appeal to the Civil Service Commission could present problems unless negotiations with the Commission in its development of implementing regulations provides "compensating" language.

4. I think it is key to our consideration of this bill to note that section 7175 authorizes the Civil Service Commission to issue implementing regulations. To the extent that we would be able to work with the Commission in the development of these regulations, we might well obtain exclusionary language which would overcome the problems mentioned above. I have in mind language similar to that incorporated in the Commission's recent regulations pertaining to disability retirements which reads:

"This subpart does not change basic requirements to comply with applicable laws, regulations, and executive orders intended to protect information involving the national security."

5. In conclusion, I reiterate that the Henderson Bill is a significant improvement over the Irvin Bill in our opinion. I believe that the critical points raised above could be resolved through negotiation with the Civil Service Commission should the Henderson Bill be enacted into law in its present form.

[Redacted Signature]

Robert S. Wattles
Director of Personnel

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12 June 1968

MEMORANDUM FOR: Deputy Director for Support

SUBJECT : Comments on the Henderson
Substitution for the Erwin Bill

1. I have reviewed carefully the substitute legislation proposed by Representative Henderson for Senate Bill 1035. My comments on each section on the proposed addition to the United States Code are as follows.

Sub-paragraph (a).

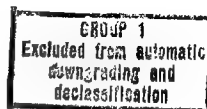
"Section 7171 - Policy"

I find no fault with this section. It is an equitable statement of policy and totally consistent with the manner in which this Office deals with employees of the Agency.

Sub-paragraph (b).

"Section 7172 - Employee Rights"

"(1) the right to be protected against any unwarranted invasion of personal privacy." - The key word here, of course, is unwarranted. I believe that it is the view of Congress that the process of security investigation and most certainly the use of the polygraph, constitutes an "unwarranted" invasion of personal privacy. I believe that this statement, as written, is ambiguous and would cause us considerable difficulty in our relations with applicants and employees.



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"(2) the right of free speech, association, and assembly compatible with his Government employment." - I do not believe that this would cause us any difficulty since our regulations in this regard are, I believe, clear and establish what is compatible in terms of Agency employment."

"(3) the right to contribute to, and participate in, lawful activities for civic improvement and to promote charitable and welfare causes on a truly voluntary basis." - This is consistent with our regulations providing such activity is reported to this Office and, I believe, is consistent with Agency policy established recently to govern the participation of our employees in "Poor Peoples" activities.

"(4) the right of unrestricted decision to engage or not engage in lawful activities or undertakings not directly related to Government employment." - Again, this is totally consistent with Agency regulations provided such activities or undertakings are reported to this Office.

"(5) the right to be accompanied, represented, and advised by an attorney or other representative of his choice if he is the subject of disciplinary proceedings or of any type of formal inquiry which may result in disciplinary proceedings; and". - This, in my opinion, conflicts with the provisions of the National Security Act of 1947 which assigns to the Director of Central Intelligence the authority to terminate an employee without appeal "in the interests of national security". This would open the Agency up, I believe, to a series of provocations and could involve making any outside attorney or other representative knowledgeable of highly classified and sensitive information.

"(6) the right of reasonable communication with officials of his agency." - This is, in my opinion, totally consistent with existing regulations, policy, and practices within the Agency.

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Sub-paragraph (c).

Section 7173 - Employee Obligations."

I find no objection to the employee obligations as listed and believe that they conform generally with the existing Agency regulations on this subject.

Sub-paragraph (d).

"Section 7174 - Enforcement"

This section, in its entirety, conflicts with authorities currently assigned the Director which take our employees out of the purview of the Civil Service Commission. Further, it assigns to the Chairman of the Civil Service Commission overriding authority in the event he decided in favor of an employee who the Director had terminated under the provisions of the National Security Act of 1947.

Sub-paragraph (e).

"Section 7175 - Regulations"

My comments, as indicated under the preceding section, apply equally here.

2. Although on an initial reading, it would appear that the proposed Henderson substitution for Senate Bill 1035 would appear to be an improvement, it does conflict with the Director's authorities under the National Security Act of 1947 and in addition, is so general and ambiguous in its wording, that it would cause us serious difficulties in handling applicants and employees who are disapproved as a result of our security processing or terminated for security reasons. It is my recommendation that we press for exemption from this piece of proposed legislation as well.

[Redacted Signature]

Howard J. Osborn
Director of Security

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STATEMENT OF
MR. RICHARD HELMS
DIRECTOR OF CENTRAL INTELLIGENCE
ON
S. 1035 AND H.R. 17760
SUBCOMMITTEE ON MANPOWER AND CIVIL SERVICE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES

19 June 1968

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90TH CONGRESS
1ST SESSION

S. 1035

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 1967

Referred to the Committee on Post Office and Civil Service

AN ACT

To protect the civilian employees of the executive branch of the United States Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. It shall be unlawful for any officer of any
4 executive department or any executive agency of the United
5 States Government, or for any person acting or purporting
6 to act under his authority, to do any of the following things:

7 (a) To require or request, or to attempt to require or
8 request, any civilian employee of the United States serving
9 in the department or agency, or any person seeking employ-

I

1 ment in the executive branch of the United States Govern-
2 ment, to disclose his race, religion, or national origin, or
3 the race, religion, or national origin of any of his fore-
4 bears: *Provided, however,* That nothing contained in this
5 subsection shall be construed to prohibit inquiry concerning
6 the citizenship of any such employee or person if his citizen-
7 ship is a statutory condition of his obtaining or retaining his
8 employment: *Provided further,* That nothing contained in
9 this subsection shall be construed to prohibit inquiry concern-
10 ing the national origin of any such employee when such in-
11 quiry is deemed necessary or advisable to determine suit-
12 ability for assignment to activities or undertakings related to
13 the national security within the United States or to activities
14 or undertakings of any nature outside the United States.

15 (b) To state or intimate, or to attempt to state or inti-
16 mate, to any civilian employee of the United States serving
17 in the department or agency that any notice will be taken of
18 his attendance or lack of attendance at any assemblage, dis-
19 cussion, or lecture held or called by any officer of the execu-
20 tive branch of the United States Government, or by any per-
21 son acting or purporting to act under his authority, or by any
22 outside parties or organizations to advise, instruct, or in-
23 doctrinate any civilian employee of the United States serving
24 in the department or agency in respect to any matter or
25 subject other than the performance of official duties to which
26 he is or may be assigned in the department or agency, or

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1 the development of skills, knowledge, or abilities which
2 qualify him for the performance of such duties: *Provided*,
3 *however*, That nothing contained in this subsection shall be
4 construed to prohibit taking notice of the participation of a
5 civilian employee in the activities of any professional group
6 or association.

7 (c) To require or request, or to attempt to require or
8 request, any civilian employee of the United States serving
9 in the department or agency to participate in any way in
10 any activities or undertakings unless such activities or under-
11 takings are related to the performance of official duties to
12 which he is or may be assigned in the department or agency,
13 or to the development of skills, knowledge, or abilities which
14 qualify him for the performance of such duties.

15 (d) To require or request, or to attempt to require
16 or request, any civilian employee of the United States serv-
17 ing in the department or agency to make any report con-
18 cerning any of his activities or undertakings unless such
19 activities or undertakings are related to the performance of
20 official duties to which he is or may be assigned in the
21 department or agency, or to the development of skills, knowl-
22 edge, or abilities which qualify him for the performance of
23 such duties, or unless there is reason to believe that the
24 civilian employee is engaged in outside activities or employ-
25 ment in conflict with his official duties.

1 (e) To require or request, or to attempt to require or
2 request, any civilian employee of the United States serving
3 in the department or agency, or any person applying for
4 employment as a civilian employee in the executive branch
5 of the United States Government, to submit to any interroga-
6 tion or examination or to take any psychological test which
7 is designed to elicit from him information concerning his
8 personal relationship with any person connected with him
9 by blood or marriage, or concerning his religious beliefs
10 or practices, or concerning his attitude or conduct with re-
11 spect to sexual matters: *Provided, however,* That nothing
12 contained in this subsection shall be construed to prevent
13 a physician from eliciting such information or authorizing
14 such tests in the diagnosis or treatment of any civilian
15 employee or applicant where such physician deems such
16 information necessary to enable him to determine whether
17 or not such individual is suffering from mental illness: *Pro-*
18 *vided further, however,* That this determination shall be made
19 in individual cases and not pursuant to general practice or
20 regulation governing the examination of employees or appli-
21 cants according to grade, agency, or duties: *Provided further,*
22 *however,* That nothing contained in this subsection shall be
23 construed to prohibit an officer of the department or agency
24 from advising any civilian employee or applicant of a specific
25 charge of sexual misconduct made against that person, and
26 affording him an opportunity to refute the charge.

1 (f) To require or request, or attempt to require or
2 request, any civilian employee of the United States serving
3 in the department or agency, or any person applying for
4 employment as a civilian employee in the executive branch
5 of the United States Government, to take any polygraph
6 test designed to elicit from him information concerning his
7 personal relationship with any person connected with him
8 by blood or marriage, or concerning his religious beliefs or
9 practices, or concerning his attitude or conduct with respect
10 to sexual matters.

11 (g) To require or request, or to attempt to require
12 or request, any civilian employee of the United States serving
13 in the department or agency to support by personal endeavor
14 or contribution of money or any other thing of value the
15 nomination or the election of any person or group of persons
16 to public office in the Government of the United States or of
17 any State, district, Commonwealth, territory, or possession
18 of the United States, or to attend any meeting held to pro-
19 mote or support the activities or undertakings of any political
20 party of the United States or of any State, district, Common-
21 wealth, territory, or possession of the United States.

22 (h) To coerce or attempt to coerce any civilian
23 employee of the United States serving in the department or
24 agency to invest his earnings in bonds or other obligations
25 or securities issued by the United States or any of its depart-

1 ments or agencies, or to make donations to any institution
2 or cause of any kind: *Provided, however,* That nothing con-
3 tained in this subsection shall be construed to prohibit any
4 officer of any executive department or any executive agency
5 of the United States Government, or any person acting or
6 purporting to act under his authority, from calling meetings
7 and taking any action appropriate to afford any civilian em-
8 ployee of the United States the opportunity voluntarily to
9 invest his earnings in bonds or other obligations or securities
10 issued by the United States or any of its departments or
11 agencies, or voluntarily to make donations to any institution
12 or cause.

13 (i) To require or request, or to attempt to require
14 or request, any civilian employee of the United States
15 serving in the department or agency to disclose any items
16 of his property, income, or other assets, source of income,
17 or liabilities, or his personal or domestic expenditures or
18 those of any member of his family or household: *Provided,*
19 *however,* That this subsection shall not apply to any civilian
20 employee who has authority to make any final determination
21 with respect to the tax or other liability of any person, cor-
22 poration, or other legal entity to the United States, or
23 claims which require expenditure of moneys of the United
24 States: *Provided further, however,* That nothing contained
25 in this subsection shall prohibit the Department of the

1 Treasury or any other executive department or agency of
2 the United States Government from requiring any civilian
3 employee of the United States to make such reports as may
4 be necessary or appropriate for the determination of his
5 liability for taxes, tariffs, custom duties, or other obliga-
6 tions imposed by law.

7 (j) To require or request, or to attempt to require
8 or request, any civilian employee of the United States
9 embraced within the terms of the proviso in subsection
10 (i) to disclose any items of his property, income, or
11 other assets, source of income, or liabilities, or his personal
12 or domestic expenditures or those of any member of his
13 family or household other than specific items tending to
14 indicate a conflict of interest in respect to the perform-
15 ance of any of the official duties to which he is or may be
16 assigned.

17 (k) To require or request, or to attempt to require or
18 request, any civilian employee of the United States serving
19 in the department or agency, who is under investigation for
20 misconduct, to submit to interrogation which could lead to
21 disciplinary action without the presence of counsel or other
22 person of his choice, if he so requests.

23 (l) To discharge, discipline, demote, deny promo-
24 tion to, relocate, reassign, or otherwise discriminate in
25 regard to any term or condition of employment of, any civil-

1 ian employee of the United States serving in the department
2 or agency, or to threaten to commit any of such acts, by
3 reason of the refusal or failure of such employee to submit
4 to or comply with any requirement, request, or action made
5 unlawful by this Act, or by reason of the exercise by such
6 civilian employee of any right granted or secured by this
7 Act.

8 SEC. 2. It shall be unlawful for any officer of the United
9 States Civil Service Commission, or for any person acting
10 or purporting to act under his authority, to do any of the
11 following things:

12 (a) To require or request, or to attempt to require or
13 request, any executive department or any executive agency
14 of the United States Government, or any officer or employee
15 serving in such department or agency, to violate any of the
16 provisions of section 1 of this Act.

17 (b) To require or request, or to attempt to require or
18 request, any person seeking to establish civil service status
19 or eligibility for employment in the executive branch of the
20 United States Government, or any person applying for em-
21 ployment in the executive branch of the United States Gov-
22 ernment, or any civilian employee of the United States
23 serving in any department or agency of the United States
24 Government, to submit to any interrogation or examination
25 or to take any psychological test which is designed to elicit

1 from him information concerning his personal relationship
2 with any person connected with him by blood or marriage,
3 or concerning his religious beliefs or practices, or concerning
4 his attitude or conduct with respect to sexual matters: *Pro-*
5 *vided, however,* That nothing contained in this subsection
6 shall be construed to prevent a physician from eliciting such
7 information or authorizing such tests in the diagnosis or
8 treatment of any civilian employee or applicant where such
9 physician deems such information necessary to enable him
10 to determine whether or not such individual is suffering
11 from mental illness: *Provided further, however,* That this
12 determination shall be made in individual cases and not pur-
13 suant to general practice or regulation governing the exami-
14 nation of employees or applicants according to grade, agency,
15 or duties: *Provided further, however,* That nothing contained
16 in this subsection shall be construed to prohibit an officer of
17 the Civil Service Commission from advising any civilian
18 employee or applicant of a specific charge of sexual miscon-
19 duct made against that person, and affording him an oppor-
20 tunity to refute the charge.

21 (c) To require or request, or to attempt to require
22 or request, any person seeking to establish civil service
23 status or eligibility for employment in the executive branch
24 of the United States Government, or any person applying

1 for employment in the executive branch of the United States
2 Government, or any civilian employee of the United States
3 serving in any department or agency of the United States
4 Government, to take any polygraph test designed to elicit
5 from him information concerning his personal relationship
6 with any person connected with him by blood or marriage,
7 or concerning his religious beliefs or practices, or concerning
8 his attitude or conduct with respect to sexual matters.

9 SEC. 3. It shall be unlawful for any commissioned officer,
10 as defined in section 101 of title 10, United States Code, or
11 any member of the Armed Forces acting or purporting to
12 act under his authority, to require or request, or to attempt
13 to require or request, any civilian employee of the executive
14 branch of the United States Government under his authority
15 or subject to his supervision to perform any of the acts or
16 submit to any of the requirements made unlawful by section
17 1 of this Act.

18 SEC. 4. Whenever any officer of any executive depart-
19 ment or any executive agency of the United States Gov-
20 ernment, or any person acting or purporting to act under his
21 authority, or any commissioned officer as defined in section
22 101 of title 10, United States Code, or any member of the
23 Armed Forces acting or purporting to act under his author-
24 ity, violates or threatens to violate any of the provisions of
25 section 1, 2, or 3 of this Act, any civilian employee of the

1 United States serving in any department or agency of the
2 United States Government, or any person applying for em-
3 ployment in the executive branch of the United States Gov-
4 ernment, or any person seeking to establish civil service
5 status or eligibility for employment in the executive branch
6 of the United States Government, affected or aggrieved by
7 the violation or threatened violation, may bring a civil action
8 in his own behalf or in behalf of himself and others simi-
9 larly situated, against the offending officer or person in the
10 United States district court for the district in which the viola-
11 tion occurs or is threatened, or the district in which the
12 offending officer or person is found, or in the United States
13 District Court for the District of Columbia, to prevent the
14 threatened violation or to obtain redress against the conse-
15 quences of the violation. The Attorney General shall
16 defend all officers or persons sued under this section
17 who acted pursuant to an order, regulation, or directive,
18 or who, in his opinion, did not willfully violate the
19 provisions of this Act. Such United States district court
20 shall have jurisdiction to try and determine such civil action
21 irrespective of the actuality or amount of pecuniary injury
22 done or threatened, and without regard to whether the
23 aggrieved party shall have exhausted any administrative
24 remedies that may be provided by law, and to issue such
25 restraining order, interlocutory injunction, permanent in-

1 junction, or mandatory injunction, or enter such other judg-
2 ment or decree as may be necessary or appropriate to prevent
3 the threatened violation, or to afford the plaintiff and others
4 similarly situated complete relief against the consequences of
5 the violation. With the written consent of any person
6 affected or aggrieved by a violation or threatened violation
7 of section 1, 2, or 3 of this Act, any employee organization
8 may bring such action on behalf of such person, or may
9 intervene in such action. For the purposes of this section,
10 employee organizations shall be construed to include any
11 brotherhood, council, federation, organization, union, or pro-
12 fessional association made up in whole or in part of civilian
13 employees of the United States and which has as one of its
14 purposes dealing with departments, agencies, commissions,
15 and independent agencies of the United States concerning
16 the condition and terms of employment of such employees.

17 SEC. 5. (a) There is hereby established a Board on
18 Employees' Rights (hereinafter referred to as the "Board").
19 The Board shall be composed of three members, appointed
20 by the President, by and with the advice and consent of the
21 Senate. The President shall designate one member as chair-
22 man. No more than two members of the Board may be of
23 the same political party. No member of the Board shall be
24 an officer or employee of the United States Government.

25 (b) The term of office of each member of the Board

1 shall be five years, except that (1) of those members first
2 appointed, one shall serve for five years, one for three years,
3 and one for one year, respectively, from the date of enact-
4 ment of this Act, and (2) any member appointed to fill
5 a vacancy occurring prior to the expiration of the term for
6 which his predecessor was appointed shall be appointed for
7 the remainder of such term.

8 (c) Members of the Board shall be compensated at the
9 rate of \$75 a day for each day spent in the work of the
10 Board, and shall be paid actual travel expenses and per
11 diem in lieu of subsistence expenses when away from their
12 usual places of residence, as authorized by section 5703 of
13 title 5, United States Code.

14 (d) Two members shall constitute a quorum for the
15 transaction of business.

16 (e) The Board may appoint and fix the compensation
17 of such officers, attorneys, and employees, and make such
18 expenditures, as may be necessary to carry out its functions.

19 (f) The Board shall make such rules and regulations
20 as shall be necessary and proper to carry out its functions.

21 (g) The Board shall have the authority and duty to
22 receive and investigate written complaints from or on be-
23 half of any person claiming to be affected or aggrieved by
24 any violation or threatened violation of this Act and to con-
25 duct a hearing on each such complaint. Within ten days

1 after the receipt of any such complaint, the Board shall
2 furnish notice of the time, place, and nature of the hearing
3 thereon to all interested parties. The Board shall render
4 its final decision with respect to any complaint within thirty
5 days after the conclusion of its hearing thereon.

6 (h) Officers or representatives of any Federal employee
7 organization in any degree concerned with employment of
8 the category in which any alleged violation of this Act
9 occurred or is threatened shall be given an opportunity to
10 participate in each hearing conducted under this section,
11 through submission of written data, views, or arguments,
12 and in the discretion of the Board, with opportunity for oral
13 presentation. Government employees called upon by any
14 party or by any Federal employee organization to participate
15 in any phase of any administrative or judicial proceeding
16 under this section shall be free to do so without incurring
17 travel cost or suffering loss in leave or pay; and all such em-
18 ployees shall be free from restraint, coercion, interference,
19 intimidation, or reprisal in or because of their participation.
20 Any periods of time spent by Government employees during
21 such participation shall be held and considered to be Federal
22 employment for all purposes.

23 (i) Insofar as consistent with the purposes of this sec-
24 tion, the provisions of subchapter II of chapter 5 of title 5,
25 United States Code, relating to the furnishing of notice and

1 manner of conducting agency hearings, shall be applicable
2 to hearings conducted by the Board under this section.

3 (j) If the Board shall determine after hearing that a
4 violation of this Act has not occurred or is not threatened,
5 the Board shall state its determination and notify all inter-
6 ested parties of such determination. Each such determina-
7 tion shall constitute a final decision of the Board for pur-
8 poses of judicial review.

9 (k) If the Board shall determine that any violation
10 of this Act has been committed or threatened by any civil-
11 ian officer or employee of the United States, the Board shall
12 immediately (1) issue and cause to be served on such of-
13 ficer or employee an order requiring such officer or employee
14 to cease and desist from the unlawful act or practice which
15 constitutes a violation, (2) endeavor to eliminate any such
16 unlawful act or practice by informal methods of conference,
17 conciliation, and persuasion; and (3) may—

18 (A) (i) in the case of the first offense by any
19 civilian officer or employee of the United States, other
20 than any officer appointed by the President, by and with
21 the advice and consent of the Senate, issue an official
22 reprimand against such officer or employee or order the
23 suspension without pay of such officer or employee from
24 the position or office held by him for a period of not to
25 exceed fifteen days, and (ii) in the case of a second

1 or subsequent offense by any such officer or employee,
2 order the suspension without pay of such officer or em-
3 ployee from the position or office held by him for a
4 period of not to exceed thirty days or order the removal
5 of such officer or employee from such position or office;
6 and

7 (B) in the case of any offense by any officer ap-
8 pointed by the President by and with the advice and
9 consent of the Senate, transmit a report concerning such
10 violation to the President and the Congress.

11 (1) If the Board shall determine that any violation
12 of this Act has been committed or threatened by any officer
13 of any of the Armed Forces of the United States, or any
14 person purporting to act under authority conferred by such
15 officer, the Board shall (1) submit a report thereon to the
16 President, the Congress, and the Secretary of the military
17 department concerned, (2) endeavor to eliminate any un-
18 lawful act or practice which constitutes such a violation by
19 informal methods of conference, conciliation, and persuasion,
20 and (3) refer its determination and the record in the case
21 to any person authorized to convene general courts martial
22 under section 822 (article 22) of title 10, United States
23 Code. Thereupon such person shall take immediate steps
24 to dispose of the matter under chapter 47 of title 10, United
25 States Code (Uniform Code of Military Justice).

1 (m) Any party aggrieved by any final determination
2 or order of the Board may institute, in the district court of
3 the United States for the judicial district wherein the viola-
4 tion or threatened violation of this Act occurred, or in the
5 United States District Court for the District of Columbia,
6 a civil action for the review of such determination or order.
7 In any such action, the court shall have jurisdiction to (1)
8 affirm, modify, or set aside any determination or order made
9 by the Board which is under review, or (2) require the
10 Board to make any determination or order which it is author-
11 ized to make under subsection (k), but which it has refused
12 to make. The reviewing court shall set aside any finding,
13 conclusion, determination, or order of the Board as to which
14 complaint is made which is unsupported by substantial evi-
15 dence on the record considered as a whole.

16 (n) The Board shall submit, not later than March 31
17 of each year, to the Senate and House of Representatives,
18 respectively, a report on its activities under this section dur-
19 ing the immediately preceding calendar year, including a
20 statement concerning the nature of all complaints filed with
21 it, its determinations and orders resulting from hearings
22 thereon, and the names of all officers or employees of the
23 United States with respect to whom any penalties have been
24 imposed under this section.

25 (o) There are authorized to be appropriated sums nec-

1 essary, not in excess of \$100,000, to carry out the provisions
2 of this section.

3 SEC. 6. Nothing contained in this Act shall be construed
4 to prohibit an officer of the Central Intelligence Agency or
5 of the National Security Agency or of the Federal
6 Bureau of Investigation from requesting any civilian em-
7 ployee or applicant to take a polygraph test, or to take a
8 psychological test, designed to elicit from him information
9 concerning his personal relationship with any person con-
10 nected with him by blood or marriage, or concerning his
11 religious beliefs or practices, or concerning his attitude or
12 conduct with respect to sexual matters, or to provide a per-
13 sonal financial statement, if the Director of the Central
14 Intelligence Agency or his designee or the Director of the
15 National Security Agency or his designee or the Director
16 of the Federal Bureau of Investigation or his designee makes
17 a personal finding with regard to each individual to be
18 so tested or examined that such test or information is re-
19 quired to protect the national security.

20 SEC. 7. Nothing contained in sections 4 and 5 shall be
21 construed to prevent establishment of department and
22 agency grievance procedures to enforce this Act, but the
23 existence of such procedures shall not preclude any appli-
24 cant or employee from pursuing the remedies established
25 by this Act or any other remedies provided by law: *Pro-*

1 *vided, however, That if under the procedures established,*
2 *the employee or applicant has obtained complete protection*
3 *against threatened violations or complete redress for vio-*
4 *lations, such action may be pleaded in bar in the United*
5 *States District Court or in proceedings before the Board on*
6 *Employee Rights: Provided further, however, That if an*
7 *employee elects to seek a remedy under either section 4 or*
8 *section 5, he waives his right to proceed by an independent*
9 *action under the remaining section.*

10 SEC. 8. If any provision of this Act or the application
11 of any provision to any person or circumstance shall be held
12 invalid, the remainder of this Act or the application of such
13 provision to persons or circumstances other than those as to
14 which it is held invalid, shall not be affected.

Passed the Senate September 13, 1967.

Attest:

FRANCIS R. VALEO,

Secretary.

90TH CONGRESS
1ST SESSION

S. 1035

AN ACT

To protect the civilian employees of the executive branch of the United States Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy.

SEPTEMBER 14, 1967

Referred to the Committee on Post Office and Civil Service

Tab C

A BILL

To recognize the rights and obligations of the civilian employees of the executive branch of the Government of the United States, *and for other purposes.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) Chapter 71 of title 5, United States Code, is amended by adding at the end thereof a new subchapter III:

"SUBCHAPTER III - EMPLOYEE RIGHTS
AND OBLIGATIONS

"§ 7171. Policy

"It is the policy of the United States as an employer to assure that -

"(1) officials of the Executive agencies charged with administrative or supervisory responsibility recognize and protect the personal and individual rights of employees; and

"(2) employees of Executive agencies recognize and honor the obligations they owe to the Government ^{and} their employer, and to officials charged with administrative or supervisory responsibility.

The effective and efficient operation of the Government requires that a fair and reasonable balance be maintained between these rights and obligations. The attainment of that balance is one of the primary purposes of personnel administration in the Executive agencies.

"§ 7172. Employee rights

"Each employee of an Executive agency is entitled to be protected in the exercise and enjoyment of the personal and individual rights he possesses as an employee. To ensure this protection, each employee acting in an official capacity for an Executive agency (referred to in this subchapter as an

official) has a positive duty to recognize and protect the personal and

individual rights of each employee of his agency to the maximum extent consistent with law and with the responsibilities of employment in the public service. The personal and individual rights of an employee include, but are not limited to -

"(1) the right to be protected against any unwarranted invasion of personal privacy;

"(2) the right of free speech, association, and assembly compatible with ^{his} Government employment;

"(3) the right to contribute to, and participate in, lawful activities for civic improvement and to promote charitable and welfare causes on a truly voluntary basis;

✓ ^{lawful} "(4) the right of unrestricted decision to engage or not engage in activities or undertakings not directly related to Government employment;

✓ "(5) the right to be accompanied, represented, and advised by an attorney or other representative of his choice if he is the subject of disciplinary proceedings or of any type of formal inquiry or ~~investigative proceedings~~ which may result in disciplinary proceedings; and

"(6) the right of reasonable communication with officials of his agency.

"§ 7173. Employee obligations

"Each employee of an Executive agency has a positive duty to recognize and honor the obligations he owes to the Government as his employer and to officials charged with administrative or supervisory responsibility. The obligations owed by an employee include, but are not limited to -

"(1) the obligation to observe the Code of Ethics for Government Service, House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. 312;

"(2) the obligation to perform his assigned tasks in such a way as will best serve the public that employs him;

"(3) the obligation promptly to obey the proper orders of officials and to respect their lawful authority;

"(4) the obligation to cooperate with fellow employees in work assignments and in on-the-job relations; and

"(5) the obligation to conduct his personal affairs so as not to reflect adversely on the Government as his employer.

"§ 7174. Enforcement

✓ "(a) An employee of an Executive agency who believes that an official has violated any of his personal or individual rights as an employee is entitled to file a grievance with his agency. If the decision on the grievance by the agency is adverse to the employee, or if after a reasonable time the agency has not issued a decision on the grievance, the employee is entitled to appeal to the Civil Service Commission. The agency shall take the appropriate action that the Commission finally recommends.

"(b) An official of an Executive agency who has cause to believe that an employee of the agency has not honored one of the obligations he owes either to the Government as his employer, or to an official charged with administrative or supervisory responsibility, shall take corrective action. When the corrective action constitutes an adverse action, the appropriate procedures set forth in chapter 75 of this title ^{and} the regulations of the Civil Service Commission shall be followed, and the employee is entitled to any right of

appeal made available under chapter 77 of this title and the regulations of the Commission.

"§ 7175. Regulations

"(a) The Civil Service Commission ^{shall} ~~may~~ prescribe regulations necessary to carry out the purposes of this subchapter.

"(b) The regulations of the Commission may define such additional employee rights and obligations as it determines are necessary to fully implement the policy set forth in section 7171 of this title. The Commission in defining additional employee rights and obligations is not restricted to ones similar to those set forth in sections 7172 and 7173 of this title."

(b) The analysis of chapter 71 of title 5, United States Code, is amended by adding the following at the end thereof:

"Subchapter III - Employee Rights
and Obligations

"Sec.

"7171. Policy.

"7172. Employee rights.

"7173. Employee obligations.

"7174. Enforcement.

"7175. Regulations."

SEC. 2. This Act shall become effective on the first day of the first month which begins later than the ninetieth day following the date of enactment.

SEC. 3. If any provision of this Act is held invalid, the remainder of this Act shall not be affected thereby.

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Tab M

FISCAL YEAR 1967 ATTRITION DATA

Listed below by employment category are the attrition rates for CIA employees during FY 1967:

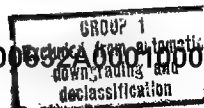
Total Agency (GS)	11.2%
Professional	5.8
Technical (minus Commo)	10.6
Commo Techs	5.7
Clerical	21.6
Wage Board	11.0
CT's	20.1*

* 3/5 of this figure were separations to enter military service.

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Tab P

20 May 1968

MEMORANDUM

SUBJECT: Involuntary Separations Processed During Fiscal Year 1967

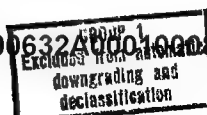
Statistical Summary

	<u>Failed to Qualify First Year (1)</u>	<u>Other Involuntary Separations (2)</u>	<u>Total</u>
Terminated by Director	0	0	0
Resigned in Lieu of Involuntary Separation	76	75	151
Retired in Lieu of Involuntary Separation	<u>0</u>	<u>12</u>	<u>12</u>
TOTAL	76*	87	163

- (1) Unsatisfactory performance or conduct during first year trial period.
- (2) Unsatisfactory performance or conduct; abolishment or downgrading of position; refusal to accept directed assignment.

* An additional 31 Security cases referred by Security resulted in resignations.

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EQUAL OPPORTUNITY PROGRAM

1. Federal Personnel Manual (FPM) Part 713, Equal Opportunity, establishes the implementing regulations for Executive Order 11246. These regulations include provisions for periodic reviews by the Civil Service Commission of an agency's equal employment opportunity program; set forth the procedures for processing complaints of discrimination; and establish the provisions for the Commission to entertain an appeal from a person dissatisfied with an agency's processing of his complaint of discrimination. The procedures governing the processing by an agency of a complaint of discrimination gives the complainant, in presenting a complaint, the right to be accompanied, represented, and advised by a representative of his own choosing, and, if a hearing is held, the representative may cross-examine witnesses who appear and testify. If the representative is from outside of the CIA, he has access to any classified data which may be introduced into the case.

2. The unique internal security requirements of CIA require the compartmentation of its personnel and activities and the application of the need-to-know principle. These facts were discussed by the Executive Director of CIA in July 1966 with senior officials of the Civil Service Commission responsible for administering the Equal Employment Opportunity program. An informal agreement was reached with the representatives of the Commission concerning several provisions of the implementing regulations which were not compatible with the security requirements of our Agency. The Civil Service Commission officials

agreed not to conduct reviews of the Agency's equal employment opportunity program. They also authorized the Agency to determine on a case-by-case basis, with due regard to the security factors involved in each case, the degree to which the provisions of the Commission's regulations governing the processing of a complaint of discrimination and the right of outside appeal would be followed. In its processing of complaints the Agency would ensure that the objectives of the Commissions implementing regulation were observed.

3. Since the establishment of the current Equal Employment Opportunity program there have been no cases of complaints of discrimination in CIA which have not been adjusted on an informal basis. In 1966 there were eight Negro employees who discussed with the Equal Employment Opportunity Officer problems or complaints involving what they considered discrimination based on race or color. There were three female employees who brought complaints to the EEEO of discrimination based on sex and marital status. In 1967 there were only two Negro employees and one female employee who discussed with the EEEO problems or complaints in these categories of discrimination.

Processing of Involuntary Disability Retirement Cases

1. Along with other agencies, CIA reviewed—prior to publication—proposed Civil Service Commission (CSC) issuances concerning the processing of involuntary disability retirement cases. Subsequently, this Agency notified CSC's Executive Director that we had no objection to the new procedures provided that protection would be afforded any classified information that might be associated with these cases. As a result of several consultations with the Director, Bureau of Retirement and Insurance (BRI), the issuances now include language to the effect that the new procedures do not change "basic requirements to comply with applicable laws, Executive orders, and regulations intended to protect information involving the national security." This language was needed for the isolated case where a specific situation might necessitate disclosure of classified information.

2. This Agency long has permitted employees to be covered by the Civil Service Retirement Act (CSRA). While historically, the Agency has complied with BRI retirement processing requirements, it has become necessary to develop special procedures for the handling of classified information whenever associated with a retirement matter. While these procedures do not change BRI requirements, they do establish unique ways of handling transmittals of information, record keeping, and the like. It is proper, of course, that the Agency comply with BRI procedures since that Bureau administers the CSRA and all of the related adjudications, disbursements, maintenance of the retirement fund, etc.

3. While the new involuntary disability retirement procedures create procedures which may be new to other Federal agencies, CIA has been observing most of the principles involved for some time. Except for a few relatively minor modifications in existing procedures, we do not anticipate any serious difficulty in complying with the new directive. We note that this Agency rarely has used the involuntary disability retirement avenue. No such case was ever submitted to BRI until completion of a full review, usually by a formal board consisting of the Medical Director, the General Counsel, other senior officials as appropriate, and the Director of Personnel.

Tab. R

ADMINISTRATIVE - INTERNAL USE ONLY

20 May 1968

MEMORANDUM

SUBJECT: Applicant Review Panel

Purpose

Established in order that the Support Offices which participate in applicant processing activities properly fulfill their responsibilities for ensuring effective selection procedures.

It is important that information which may lead to the decision that an individual applicant is not suitable for appointment be pooled and subjected to systematic evaluation. The information referred to is that relating to an individual's suitability for Agency employment incidentally developed by the respective Offices in the conduct of their primary responsibilities.

Consistent with these objectives, the Applicant Review Panel evaluates information presented to it and advises the Director of Personnel about the significance of such information as related to Agency employment. The Panel consists of representatives designated by the Director of Personnel, Director of Security, and the Director of Medical Services.

During Calendar Year 1967, the Applicant Review Panel met on an average of twice a week and reviewed a total of 651 cases. 256 individuals were recommended for approval, 347 cases were rejected or withdrawn, and as of the end of the year, 48 cases were deferred for further medical or security review.

ADMINISTRATIVE - INTERNAL USE ONLY

Tab 3

C-O-N-F-I-D-E-N-T-I-A-L

20 May 1968

MEMORANDUM

SUBJECT: Personnel Evaluation Board

Purpose

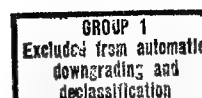
To consider questions concerning the suitability of Agency employees for continued Agency employment. Permanent membership consists of the Director of Personnel, Director of Security, and Director of Medical Services. Temporary members are Head of the Career Service having jurisdiction over the employee and the Chief of the employee's office or division as appropriate. Advisers from the Office of the General Counsel and the Director of Finance also attend.

Cases are referred to the Board by the Director of Personnel for consideration and advice. The Board is guided by various regulatory issuances relating to employee conduct and suitability.

It is emphasized that the Board is not intended to relieve Agency supervisors of their inherent supervisory responsibility for evaluating either the work performance or on-the-job behavior of their employees, but is intended to advise the Director of Personnel in the matter of resolving questions of off-the-job conduct and general suitability, for which supervisors cannot usually be held accountable.

The CIA Personnel Evaluation Board met five times during Calendar Year 1967 and discussed six cases. Personnel Evaluation Board action led to the resignation of one employee, the reassignment of one, disability retirement of two, CIA retirement of one, and the probation of one.

C-O-N-F-I-D-E-N-T-I-A-L



Tab T

Agency Grievance Procedures

1. It is Agency policy "that employees have the opportunity to present grievances for prompt and equitable consideration and disposition." In implementing this policy (set down in [redacted] the Agency encourages employees to present their grievances to their immediate supervisors, and if the supervisor is not able to bring about a satisfactory resolution of the grievance, the employee is encouraged to take any unresolved grievance up through the chain of command. This would apply to grievances of all sorts, including grievances relating to differences over Fitness Reports, perhaps the most common form of grievance in the Agency.

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2. The Agency's formal grievance procedure [redacted] provides that if the satisfactory adjustment of a grievance is not reached in the employee's own component, he may ask for a review of the situation by the Director of Personnel. The formal procedure further provides that if an employee does this and is still dissatisfied, he may then submit an appeal to the Director of Central Intelligence through the Inspector General. In actual practice the formal grievance procedure is seldom invoked within the Agency, although occasionally it may be. This is probably due to three factors: first, the fact that the Agency encourages use of the regular chain of command for this purpose usually results in the resolution of a grievance at a relatively early stage; secondly, the Agency's centralized arrangements for personnel management make the quick resolution of grievances relatively easy to accomplish; finally, in addition to the formal grievance procedure [redacted] it has been long-standing Agency policy and practice to permit employees to present grievances "on a highly confidential basis" to the Inspection Staff of the Office of the Inspector General [redacted]. Although the Office of the Inspector General is involved in the formal grievance procedure on an appellate basis [redacted] easy access to the Inspection Staff as provided [redacted] makes it possible for employees with both legitimate and imagined grievances to present these on a confidential basis to a member of the Inspection Staff.

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3. Specific mention should be made of the Agency's procedure for handling allegations of discrimination based on race, creed, color, etc., as prescribed by Executive Order 11246 dated 24 September 1965. Such complaints are channeled to the CIA Equal Employment Opportunity Officer, who in practice has been a member of the Inspection Staff. This is in line with the stipulation that an agency or departmental Equal Employment Opportunity Officer should not be a member of the agency's personnel office.

4. In addition to the procedures already mentioned for the handling of grievances within the Agency, there are other appeal procedures established for the handling of certain other specific actions of an adverse nature. For example, a specific appeal procedure is provided in the case of a proposed employee termination and another is provided in the case of a proposed involuntary disability retirement. In addition, any employee recommended for Fitness for Duty (medical) examination has an opportunity to discuss his case with a designated member of the personnel office and may register any objections or complaints he may have regarding the proposed course of action.

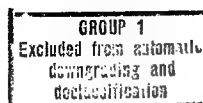
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Fab U

EMPLOYEE REQUESTS FOR ASSISTANCE

There are an average of forty-five employees per week who voluntarily contact the Office of Security requesting assistance and advice pertaining to matters of a personal nature.

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Tab V

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1. The Agency has had very few cases of complaints from applicants involving invasion of privacy. Of approximately [] applicants who were considered for Agency employment during the past year, there were only seven known cases of objections to our clearance procedures. Of these, three were medical cases:

a. One was a Christian Scientist who objected to the physical examination. After finally consenting to take it, she had to be rejected because of a medical problem she would not have corrected.

b. The other two objected to the Personal Index (Psychiatric Test). One withdrew his application and the other, a former employee, was permitted to update certain pages of the Personal Index examination. He entered on duty on 21 April 1968.

2. There were four complaints from applicants that arose as a result of security investigations:

a. Two cases would not submit to the polygraph test and the processing of both was cancelled.

b. One man decided he was not ready to accept our security rules and withdrew his application.

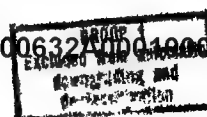
c. A former employee complained that our security investigations jeopardized his current position by contacting his employer. His full clearance was expedited and he subsequently entered on duty.

3. There have been a few other applicant complaints but these were related to the administrative process (length of processing time, and turn down for employment) rather than to invasion of privacy. In some of these cases complaints have been made to members of Congress as well as directly to the Agency.

4. Whenever a complaint is received, every effort is made by letter or telephone to explain the circumstances that apply.

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ER 67-4014

22 August 1967

The Honorable Richard B. Russell
Chairman, Committee on Armed Services
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The purpose of this letter is to request your assistance in connection with S. 1035, a bill which has been ordered reported by the Committee on the Judiciary. The purpose of the bill is "To protect the civilian employees of the executive branch of the United States Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy." If enacted in its present form, S. 1035 would have the effect of making more difficult our efforts to prevent infiltration of this Agency by Communist-oriented individuals and applicants of unsuitable character.

Senator Ervin introduced a similar bill late in the 89th Congress. At that time the bill applied to all employees of the Government. Three agencies, the Federal Bureau of Investigation, the National Security Agency and the Central Intelligence Agency, in personal interviews with Senator Ervin, advanced reasons why each of those agencies should be granted full exemption from the bill.

S. 1035, as introduced this year, contained a complete exemption for the FBI only. As reported, it contains a partial exemption for CIA and NSA. This partial exemption does not eliminate many of the provisions of the bill which are objectionable to this Agency. If enacted, I believe S. 1035 would erode the statutory authorities granted this Agency and its Director by the Congress in recognition of the special needs of this organization.

I would appreciate an early opportunity to discuss with you our specific objections to this bill.

Respectfully,

/s/ Richard Helms

Richard Helms
Director

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OLC: Subject S.1035
Russell File

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1 September 1967

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The Honorable Richard B. Russell, Chairman
Committee on Armed Services
The United States Senate
Washington, D. C.

My dear Mr. Chairman:

The attached letter sets forth my views on the provisions of Senate 1035. I deeply regret disturbing you during the Labor Day recess with this matter, but I need your advice and counsel as to how I should conduct myself in this situation. Do you want me to see various Senators and present my views, or would you prefer that I leave the matter in your hands? Further, I shall be glad to make copies of the attached letter available to the members of the subcommittees on C. I. A. if you think it appropriate.

As you know, S. 1035 was scheduled for Senate floor action on 29 August. When I learned this on the afternoon of 28 August, I took the liberty, in your absence, of appealing to Senators Stennis and Dirksen to get consideration of the bill put over. It is now scheduled for 19 September.

I hope that in reading the bill, you will come to agree with my concerns about it.

Respectfully,

(Signature)
Richard Helms
Director

Attachment

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Executive Registry

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The Honorable David N. Henderson, Chairman
Subcommittee on Manpower and Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

25X1A
I thank you for the courtesy and cooperation you extended yesterday to [] and Jack Maury of my staff when they came over to talk with you about my forthcoming appearance before your Subcommittee. As they explained to you, I do appreciate your invitation to comment on the important legislation under consideration, and please be assured that I will try to answer fully and with complete candor any questions which you or members of your Subcommittee may raise.

25X1A
In this connection, I wish to confirm the request conveyed to you by Messrs. [] and Maury that my appearance be in executive session since some aspects of the problem cannot be dealt with as thoroughly and frankly as we would like if the hearings are open to the public.

Sincerely,

/s/ Richard Helms

Richard Helms
Director

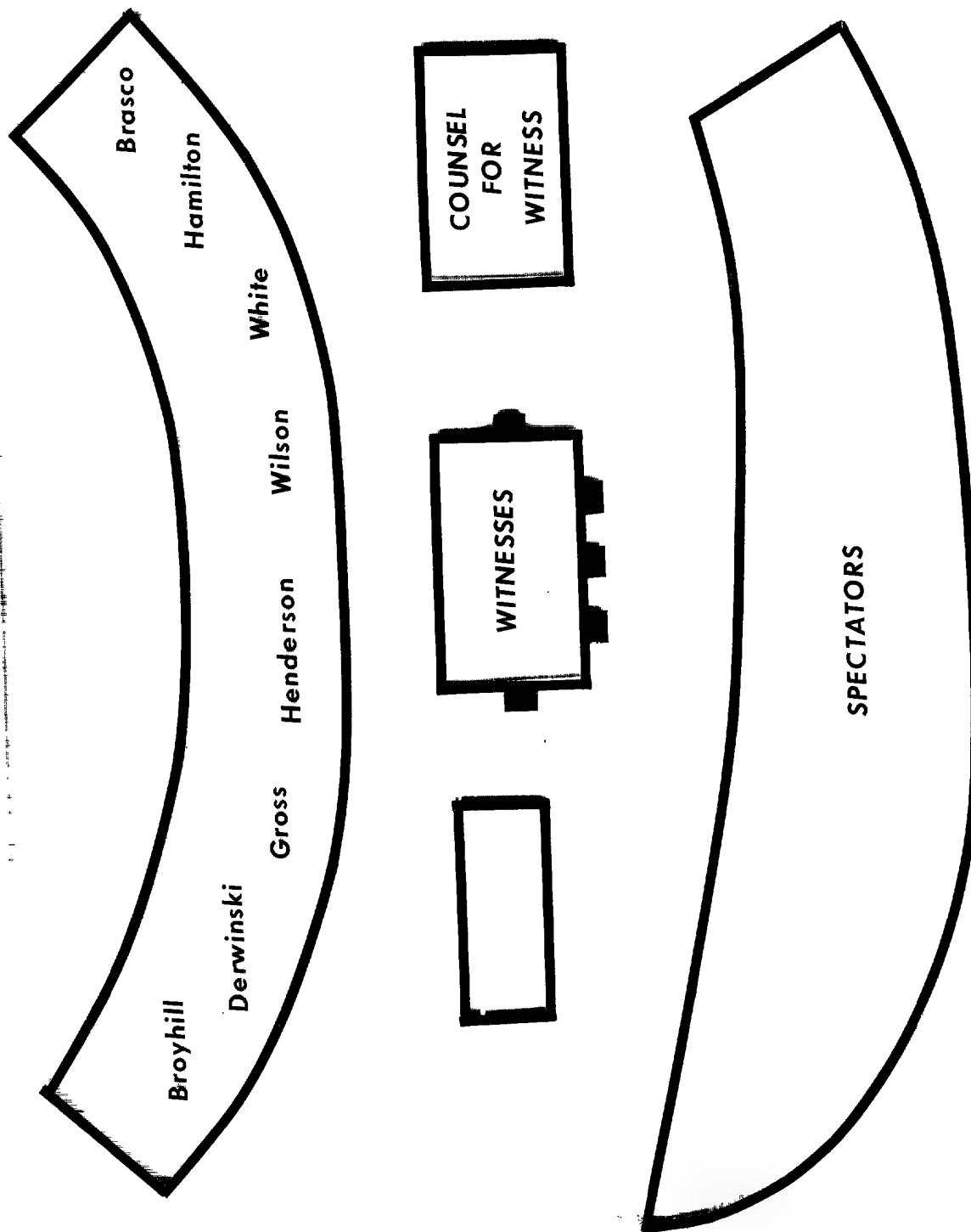
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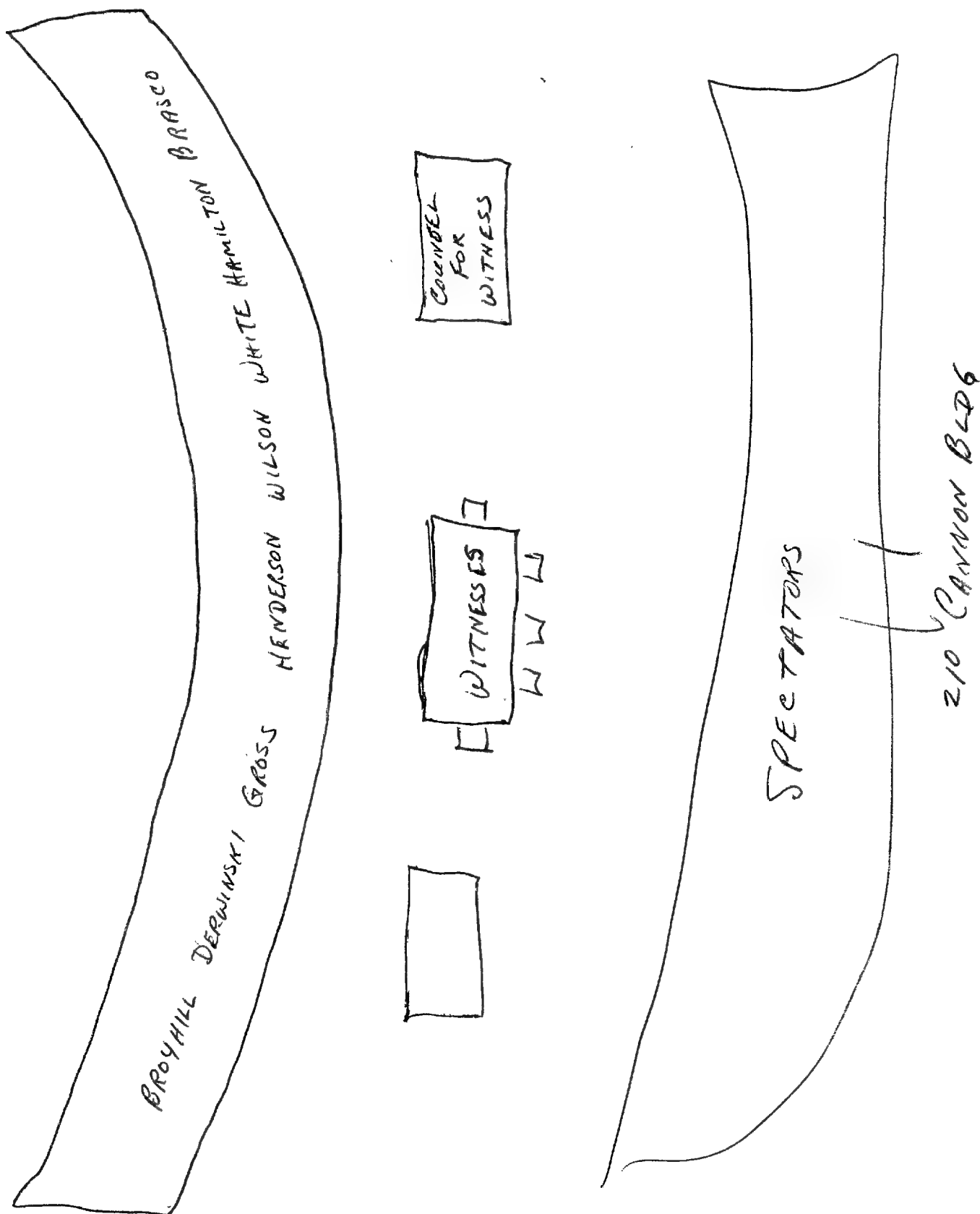
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CLEVELAND, OHIO
PRESS

E-381,708
AUG 30 1967

Senator Slams CIA for Wanting 'to Kick U.S. Employees Around'

By Press-Chicago Daily News Wire

WASHINGTON—Sen. Sam J. Ervin Jr., red-faced and furious about backstage lobbying by the Central Intelligence Agency, has denounced the spy organization for wanting to "stand above the law."

"They want the unmitigated right to kick federal employees around (and) deny them the basic rights which belong to every American," declared the angry North Carolina Democrat yesterday.

Ervin's remarks on the Senate floor amounted to one of the sharpest and bitterest congressional attacks on the super-secret intelligence agency since its formation in 1947.

THE DENUNCIATION may be widely felt, because Ervin is a member of the Senate Armed Services Committee, which has jurisdiction over the CIA.

His comments came shortly after the Senate leadership, at the insistent request of CIA officials, abruptly scratched from

yesterday's Senate agenda an Ervin-sponsored bill to safeguard the rights of federal employees.

Among other things, the bill prohibits the CIA and the equally secret National Security Agency from asking employees or job applicants about their sex habits, family relations or religious beliefs as part of lie detector or psychiatric tests.

The only exception is for situations where the directors of the CIA or the NSA determine that such questioning is vital to protect national security.

LATE LAST WEEK, CIA representatives notified several senators, including James O. Eastland (D-Miss.), chairman of the Judiciary Committee, that they wanted a secret hearing for their objections to the bill. Lie detector tests are widely used by the CIA.

The Judiciary Committee reported the bill by a unanimous vote several weeks ago. Ervin has said that the CIA was invited on two occasions to testify during committee deliberations but refused.

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The Weekly Newspaper for Civilians in Government

Vol. 3, No. 29

SEPTEMBER 13, 1967

15¢

CIA Request Halts Action On 'Rights'

WASHINGTON — Following a last-minute request from the Central Intelligence Agency, the Senate postponed consideration of the federal employee rights bill. Although the bill was scheduled for floor debate just days before the Labor Day recess, the CIA asked that it be granted a secret hearing before the Judiciary Committee. The CIA and National Security Agency want to be totally excluded from the provisions of the bill. It is now expected that the bill will not be acted on until mid-September at the earliest.

In an address protesting the Senate's action, Sen. Sam J. Ervin (D-N.C.), sponsor of S. 1035, said that the CIA's request is without precedent. "I see no practical or policy reasons for granting this request and I find no constitutional grounds for it," Ervin said. "It is neither necessary nor reasonable," he added.

Ervin pointed out to the Senate that this is the first time during the past year that the CIA has even attempted to appear before the committee. Representatives of CIA and NSA, he said, informed him when his constitutional rights subcommittee held hearings on the

(See CIA, Page 25)

SEPTEMBER 13, 1967

CIA Request Halts Rights Bill Action

(Continued from Page 1)

bill that the agencies did not desire a hearing. However, he added, the agencies have been in constant communication with him and the subcommittee staff to keep abreast of all the developments.

The North Carolina Senator said that he "would welcome nothing with more delight" than for CIA officials to appear at an open hearing before the committee. In this way, Ervin said, he could make it clear that his "bill of rights" for federal employees has been amended "to meet every valid objection the CIA voiced to the original version." He said that CIA submitted a ten-page statement marked "Secret" to his subcommittee.

The rights bill which the Senate is to consider has already been amended by the Judiciary Committee to give some exemptions to the CIA and NSA, Ervin said. He emphasized that these exemptions should not have been granted. As amended, the bill allows CIA and NSA to ask employees to disclose information regarding their finan-

cial assets if the agencies determine that such information is necessary to protect the national security.

Ervin stressed that he is completely opposed to any secret meeting with the CIA to hear "reasons which cannot be divulged to the American people why their employees should be robbed of the dignity and the freedom which all Americans enjoy." He said that such testimony is not compatible with a free society. It should not be the basis for any legislation which affects the rights of Americans, he added.

"Taken all together, their arguments for complete exemption suggest only one conclusion—that they want the unmitigated right to kick federal employees around, deny them respect for individual privacy and the basic rights which belong to every American regardless of the mission of his agency," Ervin said.

Senator Roman L. Hruska (R-Nebr.), one of the bill's 55 cosponsors, wanted to know if CIA's action was to gain time to persuade Senate members to support its position. He pointed out that such lobbying by federal employees is prohibited by law.

Ervin, who quoted the statute at the outset of his remarks, said that he was suggesting that "if the CIA could leave its polygraph machine long enough" it might have time to determine if officials were violating the lobbying statute. However, he said, despite information which he has received, he hopes "that the presumption of innocence will continue to surround the CIA."

Both Senators supported the intent of the bill to protect federal employees "from the good intentions of the government." The bill is designed to guarantee individuals their constitutional rights and to prevent unwarranted governmental invasions of privacy. The language of the bill specifically prohibits oral and written questions on the subject of race, religion, national origin, personal beliefs and off-duty conduct. It also prohibits agencies from requiring employees to donate time or money to projects and fund drives.

Sen. Hruska pointed out that the bill does more than declare the sense of Congress. The bill not only contains the guarantee of constitutional rights but it also has effective enforcement provisions which protect both the employee and the employer.

"It is designed to insure the employee an effective remedy for a wrong while still protecting the employer from unjustified charges," Hruska said. He added that the employee can go either to the court or to the Employee Rights Board which would be created under this bill.

In opposing CIA's action, Ervin said the basic premise of his bill "is that a man who works for the federal government, even if he works for the CIA or NSA, sells his services, and not his soul."

HOUSE POST OFFICE AND CIVIL SERVICE SUBCOMMITTEE MEETING

11:00 A. M. Tuesday, 25 June 1968

Room B374b, RHOB

Use South Capitol Street entrance to Rayburn Building. Go right from foyer to elevators and down one flight to "B" level. Continue across front of building (Independence Avenue side), following the corridor as it turns, to B374b on right.

**HOUSE POST OFFICE AND CIVIL SERVICE COMMITTEE
SUBCOMMITTEE ON MANPOWER AND CIVIL SERVICE**

25 June 1968 - 11:00 A.M.

David N. Henderson, Chairman (D., N. C.)

Charles H. Wilson (D., Calif.)

H. R. Gross (R., Iowa)

Richard C. White (D., Texas)

Edward J. Derwinski (R., Ill.)

Lee H. Hamilton (D., Ind.)

James T. Brodyhill (R., N. C.)

Frank J. Blasco (D., N. Y.)

Staff Members:

Charles E. Johnson, Chief Counsel - Staff Director, Full Committee

Bun Benton Bray, Director, Subcommittee

Francis T. Matchett, Investigator, Full Committee

Daniel Harris

Edward T. Hugler

CENTRAL INTELLIGENCE AGENCY

Richard Helms

Director of Central Intelligence

Lawrence R. Houston

General Counsel

John S. Warner

Deputy General Counsel

John M. Maury

Legislative Counsel

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